

REMARKS

Claims 1-14 are pending. Claims 1, 6, and 11 are independent claims. Reconsideration and allowance of the above-referenced application are respectfully requested.

Claims 1-14 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Banga et al. (US 5,931,904), hereinafter "Banga," and further in view of Smith et al. (US 7,139,844). The rejections are respectfully traversed. Neither Banga nor Smith, taken alone or in combination, describe or suggest all features of the claimed subject matter.

In this regard, Banga does not describe or suggest, "providing a plurality of different content versions, each having a different amount of information, each content version being optimized for a specific connection speed, based on said determined connection speed," as claimed. The portion in Banga cited by the Office Action states:

A preferred technique that can be used with the local proxy for enhancing the apparent connection speed relies on the fact that, at present, computational speed and ability at the user station is more readily available, and cheaper, than a faster connection. Thus, the invention relies on the retrieval of a cached version of a requested page and the subsequent transmission from the remote proxy to the local proxy of only the differences between the cached version and the current version. The user station, using its relatively fast and cheap computational resources, reconstructs the current page from the cached version and the received difference data. (Emphasis added).

See, Banga, col. 3, lines 3-15.

Thus, Banga describes relying on the availability and inexpensiveness of computational speed and ability at the user station when transmitting a page from a remote proxy to the local proxy. Further, Banga describes relying on retrieving a

cached version stored at the local proxy and the transmission of difference data between a new version and the cached version from the remote proxy to the local proxy. As described in Banga, neither the cached version nor the new version depend upon connection speed between the local proxy and the remote proxy. Rather, it is the computational speed and ability at the user station that Banga relies upon to present a requested page using a cached version of the page and difference data.

Further, Banga states:

The apparent speed of a connection between a browser at a user station and a proxy or gateway on a network such as the Internet is increased by providing a local proxy at the user station which interacts with a remote proxy. While the remote proxy is retrieving a newly requested World Wide Web page, for example, from the appropriate content provider, it may also be sending to the local proxy a stale cached version of that page. When the new version of the page is finally retrieved, the remote proxy determines the differences between the new version and the stale version, and, assuming the differences do not exceed the new page in size, sends the differences to the local proxy which then reconstructs the new page from the differences and the stale version. (Emphasis added).

See, Banga at Abstract.

Thus, Banga describes a stale cached version and a new version of the same World Wide Web page. Further, Banga describes transmitting, to the local proxy, either the difference between the new and the cached version or the new version, based on the difference between the new version and the cached version. Therefore, Banga describes that the choice of transmitting either the new version or the difference data depends on the size of the difference between the two versions, and not the connection speed between the local proxy and the remote proxy. It is respectfully submitted that, in Banga, the choice of transmission of either the new version or the

difference data is independent of the connection speed between the local proxy and the remote proxy.

In contrast, the claimed subject matter describes providing a plurality of different content versions, each having a different amount of information, each content version being optimized for a specific connection speed, based on said determined connection speed. Since Banga describes transmitting either a new version or difference data based on the difference in size between the new version and the difference data, and since the difference in size between the new version and the difference data is independent of the connection speed between the local proxy and the remote proxy, Banga does not describe or suggest the subject matter, as claimed.

Smith does not rectify the deficiencies in Banga. Smith describes a system, for delivering data objects containing data subject to periodic updates to a plurality of clients, configured to connect to at least one input data stream which carries a specific type of data object, and also establishes a communication session with various clients. See, e.g., Smith at Abstract.

Smith does not describe or suggest "providing a plurality of different content versions, each having a different amount of information, each content version being optimized for a specific connection speed, based on said determined connection speed," as claimed.

The portion of Smith cited by the Office Action states, "Alternatively, the client session 154 can periodically issue a test message to the client and measure the period of time before a response from the client is received." See, Smith, col. 17, lines 39-43.

Neither the cited portion nor any other portion of Smith describes or suggests "providing a plurality of different

content versions, each having a different amount of information, each content version being optimized for a specific connection speed, based on said determined connection speed," as claimed. Therefore, the combined teachings of Banga and Smith do not describe or suggest the claimed subject matter.

Further, it is respectfully submitted that in arriving at the suggested combination of Banga and Smith, the Office Action relies on hindsight using the Applicant's own disclosure as a template, which is impermissible.

It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. (See *In re Gorman*, 933 F.2d 982, 987, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). See also *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985).) This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." (See *In re Fritsch*, 23 U.S.P.Q. 2d 1780, 1784 (Fed. Cir. 1992), quoting *In re Fine*, 837 F.2d at 1075, 5 USPQ2d at 1600).

In this regard, Smith states:

The performance data is analyzed to determine a cycle period based on the network travel time, and the theoretical maximum number of events the client can successfully handle during this cycle period (based on the event processing speed). These constraints will then be applied to the push thread which adjusts the rate of transmission and number of outstanding data messages accordingly. Over time, the metrics can change and the constraints are adjusted accordingly.

See, Smith, col. 17, lines 50-57.

Thus, Smith describes adjusting the rate of transmission and number of outstanding data messages based on a performance analysis.

Furthermore, Smith states:

In operation, the information manager receives raw data objects on at least one raw data stream input. The raw data objects are typed and validated and a corresponding formatted data object is generated. The current state of the object is stored in an object storage pool and also broadcast on a particular broadcast data stream, preferably selected from a number of available streams in accordance with the object type. In a preferred implementation, the current state is broadcast in differential form wherein the unique object at issue is identified and the changes in the object state relative to a prior state are provided. (Emphasis added).

See, Smith, col. 2, lines 40-50.

Thus, Smith describes broadcasting the current state in differential form by identifying the object at issue and the changes in the object state relative to a prior state.

As described previously, in choosing to transmit either a new version of a page or a difference data between a new version and a cached version of the page, Banga does not rely on the connection speed between a remote proxy and a local proxy. Therefore, Smith's determination of network travel time will have no bearing on Banga's choice of transmitting either the new version or the difference data. Furthermore, Smith describes preferably broadcasting the current state in differential form, and does not describe or suggest having to choose between broadcasting either differential data or new data based on computational availability and speed at a user station or network travel time. Since Banga does not rely on connection speed and since Smith does not choose between broadcasting new and difference data, it is respectfully submitted that, here,

the Examiner relied upon hindsight using the Applicant's own disclosure as a template to arrive at the determination of obviousness.

Thus, neither Banga nor Smith, taken alone or in any combination describe or suggest all features of claim 1. Accordingly, a *prima facie* case of obviousness is not established. Further, the proffered motivation to combine Banga and Smith amounts to reconstruction by hindsight using the Applicant's own disclosure as a template, which is impermissible.

Accordingly, claim 1 is allowable. Claims 2-5 are also allowable at least for reasons similar to claim 1 and for the additional recitations that they contain.

Claim 6 is allowable at least for reasons similar to claim 1. Claims 7-10 are also allowable at least for reasons similar to claim 6 and for the additional recitations that they contain.

Claim 11 is also allowable at least for reasons similar to claim 1. Claims 12-14 are also allowable at least for reasons similar to claim 11 and for the additional recitations that they contain.

CONCLUSION

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any

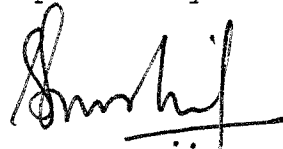
claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In view of the foregoing amendments and remarks, Applicants respectfully submit that the application is in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

Applicant asks that all claims be allowed. Please apply any credits or charges to deposit account 06-1050.

Respectfully submitted,

Date: Nov. 20 '07.



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